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AVILLA, IN 46710

In re Application of :
Victor Soitu :
Application No. 10/670,588 :
Filed: September 2, 2003 :
For: CONSTRUCTION AND METHOD IN :
ELECTRIC MOTOR DRIVE :

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OFFICE OF PETITIONS

This is a decision on the Petition for Review of Notice of Incomplete Nonprovisional Application and Request for Refund, filed October 12, 2004, requesting the application be accorded a filing date of September 2, 2003, including 5 sheets of drawings described in the specification.

The petition is granted.

The application was filed on September 2, 2003. However, on August 23, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that a filing date had not been accorded the application because the application had been deposited without drawings. The Notice also stated that the oath or declaration had not been filed.

In response, Petitioner files the instant petition wherein Petitioner avers that four (5) sheets of drawings were originally filed with the application on September 2, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 5 sheets of drawings and an executed declaration on September 2, 2003.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 5 sheets of drawings and an executed declaration on September 2, 2003. Petitioner has also re-submitted 5 sheets of drawings and executed declaration with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the postcard against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.


The copy of 5 sheets of drawings supplied on September 2, 2003, will be used for examination purposes.

The oath or declaration filed with the instant petition has been entered and made of record.

A refund of the petition fee has been credited to deposit account 20-0095 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of September 25, 2003, and an indication that 5 sheets of drawings and an executed declaration were present on filing, using the 5 sheets of drawings and executed declaration filed on October 12, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney Advisor
Office of Petitions